

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2015-013746

05/09/2017

HONORABLE LORI HORN BUSTAMANTE

CLERK OF THE COURT
T. Nosker
Deputy

JOSEPH MOMOT, et al.

KRYSTLE DELGADO

v.

SILKWORTH MANOR L L C, et al.

ADAM E HAUF
RANDY NUSSBAUM

MINUTE ENTRY

The court recognizes the case is stayed for purposes of trial as a result of the pending appeal regarding Silkworth Manor, LLC but hereby issues rulings on the pending Motions in Limine. The court has reviewed and considered the following:

- Defendant's Motion in Limine to Exclude Roxanne Momot's Testimony, Declaration and Evidence as Inadmissible
- Response to Defendant's Motion in Limine to Exclude Roxanne Momot's Testimony, Declaration and Evidence as Inadmissible
- Defendant's Motion in Limine to Limit Sandra Costa's Testimony, Declaration and Evidence as Inadmissible
- Response to Defendant's Motion in Limine to Exclude Sandra Costa's Testimony, Declaration and Evidence as Inadmissible

"A witness may testify to a matter only if evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter. Evidence to prove personal knowledge may consist of the witness's own testimony." Ariz. R. Evid. 602. "Hearsay" means a statement that: (1) the declarant does not make while testifying at the current trial or hearing; and (2) a

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party offers in evidence to prove the truth of the matter asserted in the statement.” Ariz. R. Evid. 801(c). A statement is not hearsay if “[t]he declarant testifies and is subject to cross-examination about a prior statement and the statement: (a) is inconsistent with the declarant’s testimony; (B) is consistent with the declarant’s testimony and is offered: (i) to rebut an express or implied charge that the declarant recently fabricated it or acted from a recent improper influence or motive in so testifying; or (ii) to rehabilitate the declarant’s credibility as a witness when attacked on another ground. . . .” Ariz. R. Evid. 801(d)(1).

Both Roxanne Momot and Sandra Costa may testify regarding their personal knowledge of the facts surrounding the case. There may also be hearsay exceptions to some of their testimony that will have to be ruled upon at the time they are testifying. Their declarations, as well as any other declarations that may have been submitted throughout the course of the litigation, are hearsay. A declaration may be used for credibility and impeachment purposes while the declarant is testifying during trial but the declaration itself is not admissible as evidence.

IT IS ORDERED granting in part, and denying in part Defendant’s Motion in Limine to Exclude Roxanne Momot’s Testimony, Declaration and Evidence as Inadmissible.

IT IS FURTHER ORDERED denying the request to exclude Roxanne Momot’s testimony.

IT IS FURTHER ORDERED granting the request to preclude Roxanne Momot’s Declaration from being admitted as evidence.

IT IS FURTHER ORDERED granting in part, and denying in part Defendant’s Motion in Limine to Limit Sandra Costa’s Testimony, Declaration and Evidence as Inadmissible.

IT IS FURTHER ORDERED denying the request to limit Sandra Costa’s testimony.

IT IS FURTHER ORDERED granting the request to preclude Sandra Costa’s Declaration from being admitted as evidence at this point.